



RECEIVED

MAR 04 2004

OFFICE OF PETITIONS

#43

PATENT APPLICATION  
Our Docket No. 960670.CNC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Donald L. N. Cardy et al : February 26, 2004  
S.N. : 08/737,457 : Art Unit 1644  
Filed : March 12, 1997 : Exam. G.R. Ewoldt  
For : IMPROVEMENTS IN OR RELATING TO Paper No. 42  
PEPTIDE DELIVERY

SECOND SUPPLEMENTAL RESPONSE

U.S. PATENT AND TRADEMARK OFFICE  
Box Sequence, P.O. Box 2327  
Arlington, VA 22202

Dear Sir:

This letter is submitted in response to a communication from the Examiner in charge of the application mailed April 29, 2003 and is supplemental to a response dated May 6, 2003.

To comply with the requirements of the Notice sent by the Examiner, applicants herewith supply a substitute computer readable form (CRF) copy of the requested "Sequence Listing". In addition, a substitute paper copy of the Sequence Listing is supplied as contained on page 1 of "Appendix A".

A copy of the Notice is also attached.

The information recorded in computer readable form is identical to the written Sequence Listing and they include no new matter.

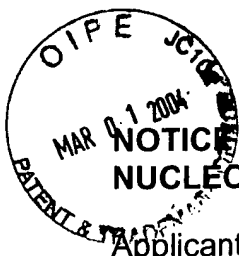
It is believed that the application now complies with the requirements of 37 CFR 1.821-1.825 and, accordingly, they have requested that substantive examination of the claims proceed.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.

A handwritten signature in cursive script, appearing to read "C. G. Mersereau".

C. G. Mersereau  
Registration No. 26,205  
Attorneys for Applicant(s)  
820 International Centre  
900 Second Avenue South  
Minneapolis, MN 55402  
(612) 339-7461



Application No.: 08/737,457

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: \_\_\_\_\_

**Applicant Must Provide:**

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

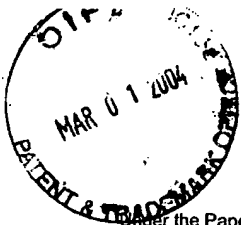
For CRF Submission Help, call (703) 308-4212

PatentIn Software Program Support

Technical Assistance.....703-287-0200

To Purchase PatentIn Software.....703-306-2600

**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY**



RECEIVED

MAR 04 2004

## OFFICE OF PETITIONS

PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

960670.CNC

First named inventor: Donald L. N. Cardy

Application No.: 08/737,457

Art Unit: 1644

Filed: March 12, 1997

Examiner: G. R. Ewoldt

Title: IMPROVEMENTS IN OR RELATING TO  
PEPTIDE DELIVERY

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

JOHNSON  
CONTROLS

DISK TO STIC

DATE

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus an extensions of time  
actually obtained.

## APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

☒ Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

## 2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in  
the form of Response to Notice to Comply (identify type of reply):☐ has been filed previously on \_\_\_\_\_☒ is enclosed herewith.

03/02/2004 BSAYASTI 00000014 08737457

B. The issue fee of \$ \_\_\_\_\_

☐ has been paid previously on \_\_\_\_\_

01 FC:2453

665.00 DP

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete,  
including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments  
on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent  
and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS  
ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

February 26, 2004  
Date

C. G. Mersereau  
Signature

Telephone  
Number: 612-339-7461

C. G. Mersereau  
Typed or printed name  
NIKOLAI & MERSEREAU, P.A.  
900 Second Avenue South, #820  
Address

Enclosures: ☒ Fee Payment

Minneapolis, MN 55402  
Address

- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: \_\_\_\_\_

### CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

February 26, 2004  
Date

Barbara L. Davis  
Signature

Barbara L. Davis  
Type or printed name of person signing certificate